

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

STEPHEN WILSON

50673

FILED

JUL 15 2014
TERESA L. DEPPNER, CLERK
U.S. District Court
Southern District of West Virginia

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. 2:14-cv-23764

(Number to be assigned by Court)

LYLE LESHER - Correctional Officer II

CHRISTOPHER HESS - Corporal

CHARLES LEGG - Lieutenant

Defendants are sued in their individual capacities.

(Enter above the full name of the defendant
or defendants in this action)

COMPLAINT

I. Previous Lawsuits

A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____ No ✓

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: N/A

Defendants: N/A

2. Court (if federal court, name the district; if state court, name the county);

N/A

3. Docket Number: N/A

4. Name of judge to whom case was assigned:

N/A

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

N/A

6. Approximate date of filing lawsuit: N/A

7. Approximate date of disposition: N/A

II. Place of Present Confinement: Mount Olive Correctional Complex (M.O.C.C.)

A. Is there a prisoner grievance procedure in this institution?

Yes ✓ No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes ✓ No _____

C. If you answer is YES:

1. What steps did you take? Exhausted all steps of the grievance procedure

2. What was the result? Grievances were denied

D. If your answer is NO, explain why not: _____

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: Stephen Wilson

Address: M.O.C.C./1 Mountainside Way, Mount Olive, WV. 25185

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: Lyle Lasher,
is employed as: Correctional Officer II
at M.O.C.C. Mount Olive Correctional Complex.
D. Additional defendants: Christopher Hess, Corporal
at M.O.C.C. Mount Olive Correctional Complex.
Charles Legg, Lieutenant, at M.O.C.C.
Mount Olive Correctional Complex.

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

1.) On the date of July 17th 2012, C.O. II, Lyle Lasher, at
all times relevant herein, acting under color of state law,
did with malicious, sadistic intent, use excessive
force wantonly against me in violation of my Eighth
Amendment right to be free from cruel and unusual
punishment pursuant to the United States Constitution
and Article III, § 5, of the West Virginia State Constitution
when he acting wantonly, with malicious, sadistic intent, di

IV. Statement of Claim (continued):

spray an excessive amount of chemical agent upon my face, head and body after I had surrendered and lay face down compliantly and non-resistant; as he stated in his report "because he was tired and wanted to incapacitate inmate Wilson."

All report's filed by other officers clearly state, inmate Wilson "surrendered and was compliant", other officers filed incident reports over C.O. II Lyle Lresher's excessive use of chemical agent on inmate Wilson. (Continued)

V. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

- A.) Declare that the acts and omissions described herein violated the Plaintiff's rights under the Constitution and laws of the United States;
- B.) Order Defendants to pay compensatory and punitive damages individually, in the amount of \$25,000.00 each.
- C.) Order Defendants to pay any and all attorney fees or court costs.
- D.) Any other just and equitable relief that this court may deem just and proper.
- E.) Jury Trial

IV

Statement of Claim (Continued) page(5)-A

C.O. II, Lyle Lesher acted wantonly, with malicious, sadistic intent, to deliberately inflict pain, suffering or injury, physically, psychologically, and mentally with no effort to temper his excessive use of force against inmate Stephen Wilson, who had immediately upon instruction, surrendered and lay face down upon the ground compliantly and non-resisting.

- 2) On the date of July, 17th, 2012, Cpl., Christopher Hess, at all times relevant herein, acting under color of State law; was present and failed to uphold his legal and constitutional duties to, stop, temper or intervene, to stop, or temper, the use of excessive force being inflicted, with malicious, sadistic intent, wantonly, by C.O. II Lyle Lesher, against inmate Stephen Wilson, who in Cpl. Christopher Hess's own incident report states clearly that inmate Stephen Wilson, "upon instruction immediately surrendered and complied" non-resisting/or providing any need or reason for the use of force in any degree. Cpl. Christopher Hess violated Stephen Wilsons, Eighth Amendment rights pursuant to the United States Constitution and Article III, § 5, of the West Virginia State Constitution.
- 3) On the date of July, 17th, 2012, Lt. Charles Legg, at all times relevant herein, acting under color of state law; was present and failed to uphold his legal and constitutional

IV Statement of Claim (Continued) page(5)continued.-B

duties to, stop, temper or intervene, to stop, or temper, the use of excessive force being inflicted, with malicious, sadistic intent, wantonly, by C.O. II Lyle Lesher, against inmate Stephen Wilson, who in Lt. Charles Legg's own incident report states clearly that inmate Stephen Wilson, "upon instruction immediately surrendered and complied" non-resisting/or providing any need or reason for the use of force in any degree. Lt. Charles Legg violated Stephen Wilson's, Eighth Amendment rights pursuant to the United States Constitution and Article III, § 5, of the West Virginia State Constitution.

End of Claims.

V. Relief (continued)):

VII. Counsel

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

Pro se

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No ✓

If so, state the name(s) and address(es) of each lawyer contacted:

If not, state your reasons: I will be acting pro se

C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No ✓

If so, state the lawyer's name and address:

N/A

Signed this 10 day of July, 20 14.

X *Stu Win*
Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10th 2014
(Date)

X *Stu Win*
Signature of Movant/Plaintiff

Pro se
Signature of Attorney
(if any)